

AN ACT

relating to limited purpose subsidiary life insurance companies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 841, Insurance Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. LIMITED PURPOSE SUBSIDIARY LIFE INSURANCE COMPANIES

Sec. 841.401. PURPOSE. The purpose of this subchapter is to authorize the establishment of domestic limited purpose subsidiary life insurance companies to enable those companies to support excess reserves for certain life insurance policies.

Sec. 841.402. DEFINITIONS. In this subchapter:

(1) "Affiliated company" means:

(A) domestic life insurance companies that are directly or indirectly wholly owned subsidiaries of the same holding company; or

(B) controlled persons.

(2) "Appointed actuary" means the actuary who is appointed by a limited purpose subsidiary life insurance company to render the actuarial opinion required by Subchapter B, Chapter 425.

(3) "Ceding insurer" means a company that cedes risk to a limited purpose subsidiary life insurance company under a reinsurance contract and that is:

(A) a domestic life insurance company that is the parent of a limited purpose subsidiary life insurance company; or

1 (B) an affiliated company of a limited purpose
2 subsidiary life insurance company.

3 (4) "Controlled person" means a person organized or
4 authorized to do business under the laws of this state that is
5 controlled directly or indirectly by a holding company.

6 (5) "Excess reserves" means the amount of statutory
7 reserves determined to be redundant by the appointed actuary for
8 life insurance policies whose reserves are calculated under 28
9 T.A.C. Chapter 3, Subchapter EE. Excess reserves may not be an
10 amount greater than the difference between the reserves calculated
11 using 28 T.A.C. Chapter 3, Subchapter EE, and the reserves
12 calculated using generally accepted accounting principles.

13 (6) "Guarantor" means a holding company or an
14 affiliated company under Section 841.417 of the limited purpose
15 subsidiary life insurance company that is a party to a guaranty.

16 (7) "Guaranty" means a commissioner-approved
17 agreement by a guarantor with sufficient equity and financial
18 strength to pay, during the life of the guaranty, an amount equal to
19 the specified obligations of a limited purpose subsidiary life
20 insurance company, less the equity of all ceding insurers that are
21 subsidiaries of the guarantor, to satisfy the agreement.

22 (8) "Holding company" means a person that directly or
23 indirectly controls an insurer.

24 (9) "Insurer" means a domestic life insurance company
25 organized under this chapter.

26 (10) "Letter of credit" means a clean, unconditional,
27 irrevocable letter of credit issued or confirmed by a qualified

1 United States financial institution, as defined by Section
2 492.104(b)(2)(C).

3 (11) "Limited purpose subsidiary life insurance
4 company" means a limited purpose subsidiary life insurance company
5 organized under this subchapter:

6 (A) that is wholly owned by a life insurance
7 company or an affiliated company; and

8 (B) to which the commissioner issues a
9 certificate of authority under this chapter.

10 (12) "Material transaction" means a transaction or
11 series of transactions involving amounts equal to or exceeding
12 three percent of a limited purpose subsidiary life insurance
13 company's admitted assets.

14 (13) "Organizational document" means a limited
15 purpose subsidiary life insurance company's articles of
16 incorporation and the company's bylaws.

17 (14) "Organizing company" means the company that
18 organizes a limited purpose subsidiary life insurance company under
19 this subchapter.

20 (15) "Parent" means a person that directly or
21 indirectly controls through one or more intermediaries, or wholly
22 owns, a limited purpose subsidiary life insurance company.

23 (16) "Person" has the meaning assigned by Section
24 823.002.

25 (17) "Reinsurance contract" means a contract between a
26 limited purpose subsidiary life insurance company and a ceding
27 insurer under which the limited purpose subsidiary life insurance

1 company agrees to provide reinsurance to the ceding insurer for
2 certain risks.

3 (18) "Risk" means a risk associated with life
4 insurance policies written on or after the effective date of this
5 chapter by a ceding insurer, or assumed by a ceding insurer from an
6 affiliated company under life insurance policies which were written
7 on or after the effective date of this chapter, by the affiliated
8 company and for which the ceding insurer calculates statutory
9 reserves for those policies pursuant to 28 T.A.C. Chapter 3,
10 Subchapter EE.

11 Sec. 841.403. ORGANIZATIONAL DOCUMENTS. (a) A wholly
12 owned domestic insurer authorized to transact the business of
13 insurance under this chapter or an affiliated company organized or
14 authorized to conduct business under the laws of this state may
15 organize a limited purpose subsidiary life insurance company under
16 this subchapter.

17 (b) A limited purpose subsidiary life insurance company may
18 reinsure risks of the organizing company and of an affiliated
19 company.

20 (c) A limited purpose subsidiary life insurance company's
21 organizational documents must:

22 (1) limit the company's authority to transact the
23 business of insurance to reinsuring only the risks of a ceding
24 insurer;

25 (2) provide that the limited purpose subsidiary life
26 insurance company may not otherwise engage in the business of
27 insurance; and

1 (3) provide that the limited purpose subsidiary life
2 insurance company must always be wholly owned by a domestic insurer
3 authorized to transact the business of insurance under this chapter
4 or by an affiliated company organized or authorized to do business
5 under the laws of this state.

6 Sec. 841.404. CERTIFICATE OF AUTHORITY REQUIRED. A limited
7 purpose subsidiary life insurance company may not engage in the
8 business of reinsurance in this state unless the limited purpose
9 subsidiary life insurance company obtains from the commissioner a
10 certificate of authority under this subchapter.

11 Sec. 841.405. APPLICATION FOR CERTIFICATE OF AUTHORITY. To
12 obtain a charter for a limited purpose subsidiary life insurance
13 company, the incorporators of the company shall pay to the
14 department a charter fee in an amount determined under Chapter 202
15 and file with the department:

16 (1) an application for charter on the form prescribed
17 by, and containing the information prescribed by, the commissioner;

18 (2) the company's articles of incorporation;

19 (3) an affidavit made by the company's president, vice
20 president, treasurer, or chief financial officer stating that:

21 (A) the minimum capital and surplus requirements
22 of this subchapter are satisfied;

23 (B) the capital and surplus are the bona fide
24 property of the company;

25 (C) the information in the articles of
26 incorporation is true and correct;

27 (D) the proposed organization and operation of

1 the limited purpose subsidiary life insurance company comply with
2 all applicable provisions of this subchapter;

3 (E) the limited purpose subsidiary life
4 insurance company's investment policy reflects and takes into
5 account the liquidity of assets and the reasonable preservation,
6 administration, and management of those assets with respect to the
7 risks associated with the reinsurance contract; and

8 (F) any reinsurance contract and any arrangement
9 for securing the limited purpose subsidiary life insurance
10 company's obligations under the reinsurance contract, including
11 any agreements or other documentation to implement the arrangement;

12 (4) a business plan that includes pro forma financial
13 statement projections that demonstrate how the limited purpose
14 subsidiary life insurance company will comply with Section 841.412;

15 (5) a copy of any proposed guaranty that demonstrates
16 how compliance with Sections 841.412 and 841.417 will be achieved;

17 (6) an opinion of a qualified independent actuary
18 acceptable to the commissioner that the methodology and assumptions
19 used to set and discount reserves make good and sufficient
20 provision for the risk assumed by the limited purpose subsidiary
21 life insurance company, including significant stress tests on key
22 assumptions; and

23 (7) any other statement or document required by the
24 commissioner to evaluate the limited purpose subsidiary life
25 insurance company's application for a certificate of authority.

26 Sec. 841.406. INVESTMENT OF CERTAIN SURPLUS BY ORGANIZING
27 COMPANY. If the company that organizes a limited purpose

1 subsidiary life insurance company is a domestic life insurance
2 company, the organizing company may invest funds from the
3 organizing company's surplus in the limited purpose subsidiary life
4 insurance company.

5 Sec. 841.407. OFFICERS AND DIRECTORS. The officers and
6 directors of a company that organizes a limited purpose subsidiary
7 life insurance company may serve as officers and directors of the
8 limited purpose subsidiary life insurance company.

9 Sec. 841.408. ISSUANCE OF CERTIFICATE OF AUTHORITY. (a)
10 The commissioner may issue a certificate of authority to a limited
11 purpose subsidiary life insurance company, authorizing the company
12 to transact reinsurance business in this state as a limited purpose
13 subsidiary life insurance company based on a finding that:

14 (1) the company's application meets the criteria
15 contained in this subsection;

16 (2) the proposed plan of the limited purpose
17 subsidiary life insurance company provides for viable operation of
18 the company, including a determination by the commissioner that the
19 limited purpose subsidiary life insurance company applicant has
20 sufficiently strong financial support;

21 (3) the guaranties meet the requirements of Section
22 841.417;

23 (4) the terms of any reinsurance arrangement,
24 including the reinsurance contract and related transactions,
25 comply with this subchapter and all applicable insurance laws and
26 rules;

27 (5) the proposed application and reinsurance

1 arrangement is not hazardous to any ceding insurer; and

2 (6) the proposed application and reinsurance contract
3 will always fund authorized investments that comply with Section
4 841.412, including statutory reserves for life insurance with
5 invested assets at least equal to the amount of reserves required
6 under generally accepted accounting principles.

7 (b) In conjunction with the issuance of a certificate of
8 authority under this section, the commissioner may issue an order
9 that includes any provisions, terms, and conditions regarding the
10 organization, licensing, and operation of the limited purpose
11 subsidiary life insurance company that the commissioner deems
12 appropriate and that are not inconsistent with this chapter,
13 including requesting from the company information to monitor the
14 financial strength of guarantors and requiring the periodic
15 reporting and monitoring of assets behind any guaranties issued.

16 Sec. 841.409. SCOPE OF CERTIFICATE OF AUTHORITY. (a) A
17 limited purpose subsidiary life insurance company that has been
18 issued a certificate of authority may reinsure only the risks of a
19 ceding insurer. A limited purpose subsidiary life insurance
20 company may not otherwise engage in the business of insurance.

21 (b) A limited purpose subsidiary life insurance company may
22 purchase reinsurance to cede the risks assumed under a reinsurance
23 contract.

24 (c) A limited purpose subsidiary life insurance company
25 organized under this subchapter is considered to be licensed to
26 transact the business of reinsurance for the purposes of Section
27 492.051, but may only reinsure risks of the company's affiliated

1 companies.

2 (d) A limited purpose subsidiary life insurance company
3 shall provide the commissioner with notice of any change in the
4 company's business plan required by Section 841.405, including any
5 material change in the methods used to comply with Section 841.413.

6 Sec. 841.410. CAPITAL AND SURPLUS. (a) The commissioner
7 may not issue a certificate of authority to a limited purpose
8 subsidiary life insurance company unless the company possesses and
9 maintains unimpaired paid-in capital and surplus of not less than
10 \$10 million.

11 (b) A limited purpose subsidiary life insurance company
12 shall comply with the risk-based capital requirements adopted by
13 the commissioner by rule.

14 (c) A limited purpose subsidiary life insurance company
15 shall maintain risk-based capital in an amount that is at least
16 equal to 300 percent of the authorized control level of risk-based
17 capital adopted by the commissioner.

18 Sec. 841.411. FORECLOSURE ON COLLATERAL. A limited purpose
19 subsidiary life insurance company shall immediately notify the
20 commissioner of any action by a ceding insurer or any other person
21 to foreclose on, or otherwise take possession of, collateral
22 provided by the limited purpose subsidiary life insurance company
23 to secure an obligation of the company.

24 Sec. 841.412. MINIMUM AUTHORIZED INVESTMENT REQUIREMENT
25 AFTER CREDIT FOR REINSURANCE; LETTERS OF CREDIT; GUARANTIES. (a) A
26 limited purpose subsidiary life insurance company shall hold
27 investments authorized under Subchapters C and D, Chapter 425,

1 exclusive of investments in affiliates, in an amount that at least
2 equals the sum of:

3 (1) the minimum capital and surplus requirements of
4 Section 841.410;

5 (2) the risk-based capital requirements adopted by the
6 commissioner; and

7 (3) reserves calculated using generally accepted
8 accounting principles.

9 (b) Subject to compliance with Subsection (a) and
10 notwithstanding Chapter 425, a limited purpose subsidiary life
11 insurance company may reduce the amount of the company's excess
12 reserves on account of:

13 (1) reinsurance that complies with Chapter 492;

14 (2) a letter of credit that complies with Section
15 492.104(b)(2)(C); or

16 (3) guaranties from a holding company or an affiliated
17 company as provided by Section 841.417.

18 (c) Notwithstanding Subsection (b), a limited purpose
19 subsidiary life insurance company may hold guaranties from a
20 holding company or an affiliated company as provided by Section
21 841.417 as an admitted asset with an offsetting increase in special
22 surplus funds to support excess reserves only.

23 Sec. 841.413. PERMITTED REINSURANCE. (a) A limited
24 purpose subsidiary life insurance company may only reinsure the
25 risks of a ceding insurer under a reinsurance contract.

26 (b) Unless otherwise approved in advance by the
27 commissioner, a limited purpose subsidiary life insurance company

1 may not assume or retain exposure to reinsurance losses for the
2 company's own account that are not funded by:

3 (1) premium and other amounts payable by the ceding
4 insurer to the limited purpose subsidiary life insurance company
5 under the reinsurance contract, or any return on the investment of
6 the premiums or other amounts;

7 (2) letters of credit that qualify under Section
8 492.104(b)(2)(C); or

9 (3) guaranties of a holding company or an affiliated
10 company as provided by Section 841.417.

11 (c) A limited purpose subsidiary life insurance company may
12 cede risks assumed under a reinsurance contract to one or more
13 reinsurers through the purchase of reinsurance, subject to the
14 prior approval of the commissioner. The commissioner may approve a
15 reinsurance contract under this subsection if the commissioner
16 finds that:

17 (1) the proposed reinsurance complies with Chapter
18 492;

19 (2) the proposed reinsurer has sufficient liquidity,
20 admitted assets, and policyholder surplus to support the
21 liabilities assumed under the reinsurance contract; and

22 (3) the proposed reinsurance contract would not result
23 in a hazardous financial condition for the limited purpose
24 subsidiary life insurance company.

25 (d) A limited purpose subsidiary life insurance company may
26 enter into contracts and conduct other commercial activities
27 related or incidental to, and necessary to fulfill the purposes of,

1 a reinsurance contract.

2 Sec. 841.414. REPORTS ON RESERVES AND RISK-BASED CAPITAL.

3 (a) A limited purpose subsidiary life insurance company annually
4 shall file an opinion of the appointed actuary acceptable to the
5 commissioner concerning the methods and assumptions used to set
6 reserves. The opinion must demonstrate that the limited purpose
7 subsidiary life insurance company holds risk-based capital and
8 invested admitted assets that are at least equal to reserves
9 specified by generally accepted accounting principles.

10 (b) The commissioner may reject the opinion of the appointed
11 actuary if the commissioner determines that accepting the opinion
12 would be hazardous to policyholders, enrollees, creditors, or the
13 public.

14 (c) A limited purpose subsidiary life insurance company
15 annually shall file with the commissioner a report of the limited
16 purpose subsidiary life insurance company's risk-based capital
17 level as of the end of the preceding calendar year containing the
18 information required by the risk-based capital instructions
19 adopted by the commissioner.

20 Sec. 841.415. OTHER LAWS NOT APPLICABLE. The deposit
21 requirements in Subchapter H do not apply to a limited purpose
22 subsidiary life insurance company.

23 Sec. 841.416. APPLICABILITY OF OTHER LAW. Except as
24 specifically provided by law, all provisions of this code apply to a
25 limited purpose subsidiary life insurance company formed under this
26 subchapter.

27 Sec. 841.417. GUARANTY REQUIREMENTS. (a) A guaranty may

1 not be used to comply with this chapter without the prior written
2 approval of the commissioner.

3 (b) Before approving a guaranty, the commissioner must find
4 that:

5 (1) the guarantor has capital and surplus of \$100
6 million, exclusive of investments in subsidiaries and affiliates;

7 (2) the guarantor has admitted assets backing capital
8 and surplus in an amount sufficient to fulfill the guaranty, and the
9 sufficiency on an ongoing basis is demonstrated to the satisfaction
10 of the commissioner;

11 (3) the guarantor and all affiliates are in good
12 standing with the department;

13 (4) the guarantor has provided all information
14 requested by the commissioner; and

15 (5) the guarantor is otherwise acceptable to the
16 commissioner.

17 (c) Notwithstanding Subsection (b), the commissioner may
18 allow, subject to the commissioner's prior approval, an affiliated
19 company of the holding company to serve as guarantor. The
20 commissioner may approve an affiliated company as a guarantor on a
21 finding that the affiliated company possesses the independent
22 financial means to discharge the guaranty using the affiliated
23 company's own financial resources.

24 Sec. 841.418. SUNSET PROVISION. This subchapter is valid
25 for business sold only until January 1 of the year in which
26 principle-based reserve requirements become operative in Texas
27 under the adoption of the National Association of Insurance

1 Commissioners' 2009 amendments to the NAIC Model Standard Valuation
2 Law. After that January 1, the limited purpose subsidiary life
3 insurance company may not assume new risks of a ceding insurer
4 relating to business sold after that date.

5 Sec. 841.419. CERTIFICATION OF ACTUARIAL OFFICER. (a) At
6 the time a limited purpose subsidiary life insurance company files
7 an application for a certificate of authority under this
8 subchapter, and not later than March 1 of each year that a limited
9 purpose subsidiary life insurance company is in operation and is
10 ceded new business from a ceding insurer, a senior actuarial
11 officer of each ceding insurer shall file with the commissioner a
12 certification that the ceding insurer's transactions with the
13 limited purpose subsidiary life insurance company are not being
14 used to gain an unfair advantage in the pricing of the ceding
15 insurer's products.

16 (b) A ceding insurer may not be deemed to have an unfair
17 advantage if the pricing of the policies and contracts reinsured by
18 the limited purpose subsidiary life insurance company reflects, at
19 the time the policies and contracts were issued, a reasonable
20 long-term estimate of the cost to the ceding insurer of an
21 alternative third-party transaction, and uses current pricing
22 assumptions.

23 (c) The ceding insurer shall keep documentation between
24 examinations that sets forth the manner in which a senior actuarial
25 officer arrived at the conclusions in the certification.

26 Sec. 841.420. ACCOUNTING AND FINANCIAL REPORTING. The
27 commissioner shall prescribe accounting and financial reporting

1 requirements with regard to the limited purpose subsidiary life
2 insurance company and any insurer as defined by Section 841.402
3 that organizes a limited purpose subsidiary life insurance company.

4 SECTION 2. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2011.

H.B. No. 3161

David Dewhurst

President of the Senate

Joe Straus

Speaker of the House

I certify that H.B. No. 3161 was passed by the House on May 5, 2011, by the following vote: Yeas 146, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3161 on May 25, 2011, by the following vote: Yeas 142, Nays 0, 2 present, not voting.

Robert Harney

Chief Clerk of the House

I certify that H.B. No. 3161 was passed by the Senate, with amendments, on May 23, 2011, by the following vote: Yeas 31, Nays 0.

Daisy Graw

Secretary of the Senate

APPROVED:

17 JUN '11

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

4pm O'CLOCK

JUN 17 2011

Debra Mark

Secretary of State